



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA- 171447

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance (MA), a hearing was held on May 20, 2016, at Portage, Wisconsin. Previously scheduled hearing were rescheduled at petitioner's request.

The issue for determination is whether the respondent correctly denied petitioner's request for Child/Adolescent Day Treatment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent's Representative:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], RN, CP, CPC
Division of Health Care Access and
Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Columbia County who receives MA.
2. Petitioner is diagnosed with atypical psychosis of childhood. He has a history of aggressiveness and violence in school and in the home. He was previously diagnosed with ADHD and oppositional defiant disorder.
3. Petitioner has an IEP and receives services from the Columbia County Comprehensive Community Services, which consist of 8 hours of weekly in-home psychological counseling and 6 hours of weekly interpersonal skills training and case management.
4. Due to his ongoing mental health difficulties at school and home, petitioner's Comprehensive Community Services (CCS) case manager referred petitioner for CADT services.
5. On December 1, 2015, Northwest Journey requested prior authorization for CADT services for petitioner for a 13 week period, per PA no. [REDACTED]. By a letter dated December 17, 2015, the respondent denied the request.
5. Petitioner's difficulties with emotional regulation and social functioning are so severe that CCS services and his Individual Educational Plan (IEP) are not sufficient to meet his present needs.

DISCUSSION

The petitioner and his provider, Northwest Journey Superior, seek reimbursement for 13 weeks of Child/Adolescent Day Treatment Services. The Division of Health Care Access and Accountability denied the request because it determined that the services are not medically necessary.

The Division indicates that this a "HealthCheck—Other Service" covered under Wis. Admin. Code, § DHS 107.22(4), a catch-all category applying to any service described in the definition of "medical assistance" found at 42 USC 1396d(a). When determining what law to apply, one looks first to the one that most specifically covers the situation. Day treatment mental health services for children under 18 are specifically covered by Wis. Admin. Code, Chapter DHS 40. I will rely upon that provision to determine whether the petitioner qualifies for services.

To qualify for services, a child "must have a primary psychiatry diagnosis of mental illness or severe emotional disorder." Wis. Admin. Code, § DHS 40.08(3)(a). Mental illness is defined as a "medically diagnosable mental health disorder which is severe in degree and which substantially diminishes a child's ability to carry out activities of daily living appropriate for the child's age." Wis. Admin. Code, § DHS 40.03(16). Each child is evaluated by a psychologist or psychiatrist and has a treatment plan approved by a program. Wis. Admin. Code, §§ DHS 40.08(4) and 40.09(2)(c). Like any medical assistance service, it must be medically necessary, cost-effective, and an effective and appropriate use of available services. It must also meet the "limitations imposed by pertinent...state...interpretations." Wis. Admin. Code § DHS 107.02(3)(e)1.,2.,3.,6., 7, and 9. Wis. Admin. Code.

"Medically necessary" is defined in Wis. Admin. Code § DHS 101.03(96m) as a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:

1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
3. Is appropriate with regard to generally accepted standards of medical practice;
4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
5. Is of proven medical value or usefulness and, consistent with s. DHS 107.035, is not experimental in nature;
6. Is not duplicative with respect to other services being provided to the recipient;
7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

The pertinent interpretation of the requirements that must be met to receive adolescent day services is found at Wisconsin Medicaid and BadgerCare Update No. 96-20. It states:

Child/adolescent day treatment services are covered when the following are present:

- * Verification that a HealthCheck screen has been performed by a valid HealthCheck screener dated not more than one year prior to the requested first date of service (DOS).
- * A physician's prescription/order dated not more than one year prior to the requested first DOS.
- * Evidence of an initial multidisciplinary assessment that includes all elements described in DHS 40.09, Wis. Admin. Code, including a mental status examination and a five-axis diagnosis.
- * The individual meets one of the following criteria for a determination of "severely emotionally disturbed" (SED):
 - o Is under age 21; emotional and behavioral problems are severe in degree; are expected to persist for at least one year; substantially interfere with the individual's functioning in his or her family, school, or community and with his or her ability to cope with the ordinary demands of life; and cause the individual to need services

- from two or more agencies or organizations that provide social services or treatment for mental health, juvenile justice, child welfare, special education, or health.
- o Substantially meets the criteria previously described for SED, except the severity of the emotional and behavioral problems have not yet substantially interfered with the individual's functioning but would likely do so without child/adolescent day treatment services.
 - o Substantially meets the criteria for SED, except the individual has not yet received services from more than one system and in the judgment of the medical consultant, would be likely to do so if the intensity of treatment requested was not provided.
- * A written multidisciplinary treatment plan signed by a psychiatrist or clinical psychologist as required in DHS 40.10, Wis. Admin. Code, that specifies the services that will be provided by the day treatment program provider, as well as coordination with the other agencies involved.
 - * Measurable goals and objectives that are consistent with the assessment conducted on the child and written in the multidisciplinary treatment plan.
 - * The intensity of services requested are justifiable based on the psychiatric assessment and the severity of the recipient's condition.

The central issue here is whether the petitioner has established that the requested CADT is medically necessary. The petitioner, who is twelve years old, has serious behavioral problems that exhibited themselves through a history of angry outbursts at school and at home. Petitioner has an IEP but has been suspended multiple times from school for reasons including spitting in a teacher's face, calling a teacher a bitch, running out of class or his school building, hiding from staff, destruction of property, throwing chairs, shoving a teacher, inappropriate sexual comments and swearing. He has also urinated in his classroom. Petitioner's representative also indicated that petitioner has been referred to authorities for disorderly conduct and criminal destruction of property.

Petitioner's provider, [REDACTED], testified that, petitioner falls into a diagnostic space someplace in the undefined area between ADHD, reality distorting mood disorders, and the autism spectrum. Because of his significant problems with reality testing or perceptual accuracy, coupled with his social inference difficulties and affective lability, [REDACTED] chose to use the diagnosis of "atypical psychosis of childhood."

Petitioner's witnesses described an adolescent boy with varying perceptual issues and complete lack of social skills or awareness. [REDACTED] referenced petitioner's lapses into forms of imaginative talk and play that were clearly not typical for a twelve year old. Petitioner's school therapist's notes corroboratively reference petitioner's bizarre behavior, including imitating animals and making inappropriate sexual comments.

The petitioner has established the medical necessity of the requested CADT services. Petitioner's witnesses testified credibly and consistently regarding petitioner's rare presentation and the outward effects of his diagnosis. Present attempts to address his disabilities have not been effective, and it is apparent that more aggressive treatment is warranted here.

I note to the petitioner that Northwest Journey will not receive a copy of this decision. Therefore, in order for it to receive payment for these services, the petitioner must provide Northwest Journey a copy of this

decision. Northwest Journey will be required to submit a new Prior Authorization Request to receive payment for the services it has provided.

CONCLUSIONS OF LAW

The petitioner is entitled to medical assistance reimbursement for CADT services because he has established that those services are medically necessary.

THEREFORE, it is

ORDERED

That the petitioner's adolescent day treatment provider, Northwest Journey, is entitled to provide the services provided pursuant to Prior Authorization Request no. [REDACTED] that is the basis for this appeal. Northwest Journey must submit its claim along with a copy of this decision and a new prior authorization form to Forward Health for payment.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

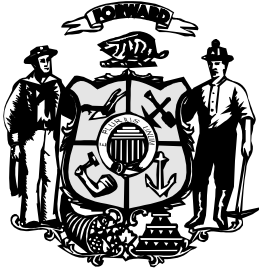
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 8th day of July, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 8, 2016.

Division of Health Care Access and Accountability

